

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2398 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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NIRMAL LAND CORPORATION

Versus

UNION OF INIDA

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Appearance:

MR MB GANDHI for Petitioner

Mr B B Naik for respondents

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 21/08/96

ORAL JUDGEMENT

This Special Civil Application has been filed by Nirmal Land Caorporation, a registered firm through its partner Sitarambhai Delhiwala seeking direction to fix rent of the subject premises for the period 1983-87 and subsequent years.

2. The say of the petitioner is that the subject

premises was rented out to the respondents in the year 1977 on a monthly rent fixed at Rs.1,410/- per month. As per the agreement, the rent was required to be revised at an interval of 5 years.

3. This Special Civil Application is opposed by Mr B B Naik, learned Addl. Central Government Standing Counsel on the ground of delay on the part of the petitioner in approaching this Court. I have considered this contention and rejected the same in an identical matter being Special Civil Application No.2397/93 decided today.

4. It is not in dispute that under the certificate dated 24.10.1994, the CPWD assessed rent of the premises as per the recognised principles at Rs.4,164/- and as per the market rate at Rs.4,4,22/-. Thus, rent for the period 1983-87 can conveniently be fixed at the average rate which comes to Rs.4,293/- per month. The respondents have no objection with respect to the fixing of rent and payment as per the certificate issued by the CPWD for the period 1987 onwards. According to the certificate dated 3.12.1992, the CPWD has assessed rent of the premises as per the recognised principles at Rs.6,600/- and as per the market rate at Rs.6,900/-. Thus, for the period 1987-92, the rent can be fixed at the average rate which comes to Rs.6,750/- per month. As per the certificate dated 3.12.1992, the CPWD has assessed rent of the premises as per the recognised principles at Rs.12,240/- per month and as per the market rate, Rs.13,120/-. Thus, rent for the period 1992-93 can be fixed at the average rate which comes to Rs.12,680/-.

5. In view of the aforesaid, this Special Civil Application is allowed. The respondents are directed to fix rent of the subject premises for the different periods as indicated above and make payment thereof. The respondents shall continue to pay rent of the premises at the rate of Rs.12,680/- per month for a period of 5 years as per the agreement. It is stated that certain amount has been paid to the petitioner under the interim orders of this Court. The respondents shall calculate the amount and if any amount has been paid in excess or short, the same shall be adjusted. The entire process of calculation and the payment thereof shall be completed within a period of two months from the date of receipt of writ.

Rule is made absolute accordingly with no order as to

costs.

FURTHER ORDER

After pronouncement of the judgment, Mr B B Naik, learned Addl. Central Government Standing Counnsel submits that the order fixing the rent for the period 1983-87 may be stayed for a period of 4 weeks with a view to approach the higher forum. This prayer is being opposed by Mr M B Gandhi, learned Advocate for the petitioners. However, it is directed that this order will not be given effect for a period of 3 weeks.

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